

### **REMARKS/ARGUMENTS**

Claims 1 to 10 are pending in the instant application. Claim 1 has been amended to particularly point out and distinctly claim that which Applicants consider to be their invention. Applicants respectfully submit that the amendments do not introduce new matter in contravention of 35 U.S.C. §132. Reconsideration is respectfully requested. Additionally, claims 2, 3, 5, 6 and 8 have been cancelled and new claim 11 has been added.

Basis for claim 11 is found at page 5, 4<sup>th</sup> paragraph of the specification as filed. Only the metallic imageable moieties listed here are included since the moiety Z of claim 1 is restricted to read on a chelating agent of Formula II carrying an imageable moiety of a metallic radionuclide M.

The following remarks, in conjunction with the above-mentioned amendments, are believed to be fully responsive to the Office Action.

### **DOUBLE PATENTING REJECTIONS SHOULD BE WITHDRAWN**

Claims 1-10 are rejected on the ground of non-statutory obviousness-type double patenting over claims 1 to 4 of U.S. Patent 6,264,914 since they are considered not patentably distinct from each other.

Claims 1-10 are further rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1 to 10 of U.S. Patent 6,921,525 since they are considered not patentably distinct from each other.

Claims 1-10 are still further rejected on the ground of non-statutory obviousness-type double patenting over claims 1 to 5 of U.S. Patent 7,182,934 since they are considered not patentably distinct from each other.

Applicant hold that with the amendments introduced with the claims presently on file these rejections are no longer valid and should be withdrawn.

Claims 1-10 are provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1 to 11 of copending Application No. 10/559,880. The Examiner should note that the present application was filed prior to Application No. 10/559,880. The US filing date for the present application is 07/08/2005 and not 06/07/2006 as noted as the filing date on the front page of the present Office Action. The provisionally double patenting rejection should therefore be withdrawn.

**CLAIM REJECTION UNDER U.S.C. §101**

**SHOULD BE WITHDRAWN**

Claim 8 is rejected under U.S.C. §101. However, claim 8 is now cancelled and the rejection should be withdrawn.

**CLAIM REJECTION UNDER U.S.C. §112**

**SHOULD BE WITHDRAWN**

Claim 8 is rejected under U.S.C. §112. However, claim 8 is now cancelled and the rejection should be withdrawn.

Claims 1 and 3 to 10 are rejected under U.S.C. §112. Claim 1 is amended and restricted by incorporating previous claims 2 and 3 into claim 1. Amended claim 1 now specify that V is a non-peptidic vector having affinity for the Angiotensin II receptor and is selected from Losartan, Valsartan, Candesartan, Eprosartan or derivatives thereof. Applicants therefore hold that the metes and bounds of the claims are now clearly set forth and that the scope of the claims are finite and have support in the specification.

**REJECTION UNDER U.S.C. §102 SHOULD BE WITHDRAWN**

Claims 1, 2 and 5-10 stand rejected under U.S.C. § 102(b) as being anticipated by Klaveness et al. (US 6,264,914) ("Klaveness").

As noted above, claim 1 has been amended to more particularly claim the instant invention. Claim 1 has been amended by incorporating subject matter of claims 2 and 3. It is correct that Klaveness discloses compositions of the formula V-R-L with the meanings of V and L as stated in the Office Action. It is also correct that the reporter group R includes chelated metal radionuclides. However, Klaveness does not mention the chelator of formula (II) which was previously claimed in claim 3 and which is now included in claim

1. Therefore, amended claim 1 is novel over Klaveness since this citation fails to disclose each and every element of the present invention.

Original claims 2, 5, 6 and 8 are cancelled. Claims 7, 9 and 10 refer back to claim 1 and are therefore considered novel.

Thus, Applicants respectfully submit that the present invention as set forth in the enclosed amended claims is novel over Klaveness's disclosure. Reconsideration and withdrawal of the rejection are respectfully requested.

**REJECTION UNDER U.S.C. §103 SHOULD BE WITHDRAWN**

Claims 1 to 10 stand rejected under U.S.C. § 103(a) as being unpatentable over Klaveness et al. (US 6,264,914) ("Klaveness") in view of Cuthbertson et al. (WO 03/006491) ("Cuthbertson"). This rejection is respectfully traversed.

Klaveness discloses compositions of the formula V-L-R but does not disclose chelating moieties of formula II as noted by the Examiner. Cuthbertson discloses compounds of formula II of amended claim 1 and of formula e of claim 4. However, the subject matter as a whole would not have been obvious at the time the invention was made to a person having ordinary skill in the art. The invention of Cuthbertson was first made publicly available on January 23, 2003 by the publication of WO03/006491 for Amersham Health AS with the inventors Alan Cuthbertson, Bård Indrevoll and Magne Solbakken. The present patent application takes priority from January 9, 2003, Norwegian Patent Application

20030115 of Amersham Health AS with the inventors Magne Solbakken, Torgrim Engell, Harry John Wadsworth and Colin Archer. Hence, Cuthbertson is not prior art since Cuthbertson and the present invention are not described in a published application for a patent by another filed in the U.S. before the invention by Applicants. Cuthbertson is therefore not available as obviousness prior art under U.S.C. § 103(a) since the subject matter and the claimed inventions were owned by the same persons. Reconsideration and withdrawal of the rejection are respectfully requested.

#### **CLAIM OBJECTION**

Applicants have corrected “non-peotidic” in claim 1 to read “non-peptidic”.

### **CONCLUSION**

Applicants respectfully hold that the amended claims submitted herewith fulfill the requirements of a patentable invention and that all rejections and objections be withdrawn and claims 1-10 be allowed.

The Examiner is invited to telephone the undersigned in order to resolve any issues that might arise and to promote the efficient examination of the current application.

Respectfully submitted,

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